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NEWS

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August 2021

Get Back to Work: Four Things Employers Should Know

By C.J. Schmidt, Wood + Lamping

As the number of vaccinated people goes up and the number of COVID-19 cases goes down, companies and employees have to consider the option of returning to the workplace. With varying levels of comfort and confidence about being face-to-face with other people again, employers have to create clear policies to guide workers and set expectations.

While creating workplace policies, there are some things that companies should know — what they can and should insist on and what to watch out for when they do.

Companies may insist that employees return to work in person.

Much of the post-COVID employment talk has been about companies allowing employees to continue to work remotely. However, remote work may not be an option for every company.

Some business models rely on in-person interaction for multiple reason including productivity, efficiency, customer service, the nature of the work to be performed or accountability. If a company determines that remote work is not an option, then the company may require that employees return

to in-person work.

Some employees may not be able to return because of a disability, that is, the employee cannot perform the essential functions of their job because of a physical or mental handicap. Before an employer may legally terminate a disabled employee, the employer must determine whether or not the employee can perform the essential functions of the job with or without a reasonable accommodation. Therefore, we recommend that prior to terminating an employee who claims to be disabled, that the employer consult with legal counsel.

Companies may insist that employees be vaccinated.

While we make room for vaccination hesitancy as a society, there's no legal reason that a company cannot insist on vaccination and to view proof of vaccination. However, this is a complex issue because the COVID-19 vaccines have only been approved for emergency use.

As with disabilities that restrict people from returning to the workplace, some employees may choose to not be vaccinated because of an existing

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Tech Tip: Is your case still good law? Use the Westlaw Keycite flags to determine if it is good or not.




by Julie Koehne, Systems Librarian

KeyCite is the powerful citation research service available exclusively on Westlaw. Use KeyCite at every step of your research to help you find, understand, and update the law.

The KeyCite citation network is integrated with the West Key Number system. This integration allows KeyCite to connect documents that discuss the same legal issues with the analytical materials that explain those issues.


Once you have found a document upon which to base your legal argument, KeyCite Flags alert you to negative references or events that may impact the validity of that document.

KeyCite Status Flags for Cases

-  A red flag warns that the case is no longer good law for at least one of the points of law it contains.
-  A yellow flag warns that the case has some negative history, but has not been reversed or overruled.
-  A blue-striped flag warns that the case has been appealed to the US Court of Appeals or the US Supreme Court (excluding appeals originating from agencies).

If a case has a red or yellow flag, the most negative treatment is displayed next to the flag at the top of the case. Most negative treatment consists of phrases such as Overruled by, Abrogated by, or Distinguished by, and includes a link to the underlying document, if available.

If a case has a blue-striped flag, it warns that the case has been appealed to the US Court of Appeals or the US Supreme Court. A blue-striped flag is considered neutral and language such as Petition for Certiorari Docketed by or Appeal Filed by is displayed next to the flag at the top of the case.



Ledbetter v. Goodyear Tire & Rubber Co., Inc.

Supreme Court of the United States | May 29, 2007 | 550 U.S. 618 | 127 S.Ct. 2162 | 167 L.Ed.2d 982 | [See All Citations](#) (Approx. 28)

Document


Filings (24)

Negative Treatment (225)


History (5)

Citing References (5,698) ▼

Table of Authorities



Overturned Due to Legislative Action U.S. Pub. L. No. 111-2 January 29, 2009



Original Image of 127 S.Ct. 2162 (PDF)

127 S.Ct. 2162

Supreme Court of the United States

Lilly M. LEDBETTER, Petitioner,

v.

The GOODYEAR TIRE & RUBBER CO., INC.

No. 05-1074.

Argued Nov. 27, 2006.

Decided May 29, 2007.

Ledbetter v. Goodyear Tire & Rubber Co., Inc.
 Supreme Court of the United States | May 29, 2007 | 550 U.S. 618 | 127 S.Ct. 2162 | 167 L.Ed.2d 992 | See All Citations (Approx. 28 pages)

Document | Filings (24) | **Negative Treatment (225)** | History (5) | Citing References (5,698) | Table of Authorities

KeyCite Negative Treatment

Negative Direct History
The KeyCited document has been negatively impacted in the following ways by events or decisions in the same litigation or proceedings:

☐ **1. Ledbetter v. Goodyear Tire & Rubber Co., Inc.** **KEYCITED**
 550 U.S. 618, U.S., May 29, 2007
 Overturned Due to Legislative Action U.S. Pub. L. No. 111-2 (Jan 29, 2009) **MOST NEGATIVE**

Negative Citing References (224)
The KeyCited document has been negatively referenced by the following events or decisions in other litigation or proceedings:

Treatment	Title
<input type="checkbox"/> Superseded by Statute as	1. Bush v. Orange County Corrections Dept. 597 F.Supp.2d 1293, M.D.Fla.

Viewing Negative Direct History and Negative Citing References

Click the Negative Treatment tab to view negative direct history, negative citing references, and overruling risks for a case. Negative citing references are listed in a table format.

The depth of treatment bars in the Depth column indicate the extent to which the citing case discusses the cited case, and the headnote numbers in the Headnote(s) column indicate which headnotes in the cited case contain the points of law discussed by the citing cases.

Viewing History

Click the History tab to view the direct history of a case and related references. The cases included in the direct history and related references are listed in the left column. Direct history includes all history, both cases with and without KeyCite treatment. Direct history is also displayed in graphical view in the right column. You can restrict direct history by choosing an option from the View drop-down list.

Viewing Citing References

Click the Citing References tab to view a list of cases, administrative materials, secondary sources, briefs, and other court documents that cite your case. To change the order in which the citing references are displayed, select an option from the Sort By drop-down list on the toolbar.

To narrow the list of citing references, you can:

Enter the terms in the Search within results field in the left column.

Click a document type in the left column, e.g., Cases. Further narrow this list by selecting a filter e.g., Jurisdiction.

Material reprinted from Westlaw Quick Reference Guide:

<https://lawlibrary.hamiltoncountyohio.gov/wp-content/uploads/2021/07/Westlaw-flag-help.pdf>

medical condition or a religious objection. In these cases, employers should consult with legal counsel prior to making a decision requiring vaccination.

Companies can insist on proof of medical conditions or disabilities.

If an employer claims that they have a medical condition or are disabled in some manner which requires an exemption from mask-wearing or vaccination, then the employer may require about the claimed medical condition or disability for the purpose of developing a reasonable accommodation for the claimed medical condition or disability. Moreover, employers can ask for proof of a medical condition or disability, including contact with the employee's physician.

However, it is imperative that any and all medical information collected from employees be kept confidential. Even something as innocuous as announcing the name of an employee who has contracted the virus or is working remotely for medical reasons can lead to legal trouble.

Companies may require employees to wear masks.

And hey, who could blame them? Face masks are a common safety practice in many countries for protection against airborne pathogens. So if you believe your workplace is safer and more hygienic with masked employees, you may require the employees to wear masks. (Hairnets weren't always commonplace either.)

As with any of these requirements, be aware of disabilities that may disqualify some employees and make adjustments as necessary.

"Back to normal" seems so close we can almost taste it! But this post-COVID era will take careful thought and planning to navigate. There are many practical, legal and financial issues regarding how to "return to normal." Ohio is currently among the top five states in the country for COVID litigation, so seeking a legal opinion on any proposed policies is a smart move. But if you know your rights as an employer and carefully consider the well-being of your employees, customers, and business, you'll return

to work smoothly and successfully.

C.J. Schmidt practices in the firm's Litigation and Labor and Employment Practice Areas. He also served as Wood + Lamping's managing partner for 11 years. C.J. has 35 years of experience handling general civil litigation with a concentration in labor and employment disputes of all types.



Resource Highlight: Fastcase

Fastcase is one of many useful resources here at the Law Library. We offer access to this database both on and off site for most of our subscribers via your login to our website, allowing you to conduct your research 24/7 from your home or office. Fastcase is an online database that provides access to statutes and case law from all 50 states and federal. The database provides annotated statutes, cite-checking, and a graphical interactive timeline in their Authority Check reports. The Law Library's subscription to Fastcase includes a special add-on collection of full-text treatises highlighting various substantive and procedural topics. Areas include, business, estate planning, employment law, real estate, evidence and much more.

Fastcase has always been one of our most utilized and important resources, but in these crazy times, having instant access to this robust collection of legal materials at any time, from any location, is of even greater value. We're pleased to continue to offer this to you as a benefit of your subscription to the Law Library. If your subscription does not offer Fastcase because you are an individual attorney subscriber, please don't hesitate to contact [Vanessa](#) about how to upgrade.

For questions and navigation tips, please feel free to contact our reference staff at 513-946-5300 or reference@cms.hamilton-co.org.

Digital Signs

If you've visited the Law Library recently you may have noticed an upgrade to our signage. We recently paired grant funds from the Ohio Consortium of County Law Libraries with some existing library tech (iPads that lack more modern functionality) to create informative signs outside our conference rooms in our updated State of Ohio room. These signs indicate whether and when the room is reserved, so you'll know if you can utilize it at any given time. And, we're developing a process so that you can reserve the room directly from the iPad itself via QR code. Stay tuned for more details about that once it's ready!

We've also added a new digital sign in the foyer outside the Law Library entrance. We'll use this to highlight upcoming programming and services as well as to display any info about closings for holidays, inclement weather, etc. Feel free to take a moment to check it out the next time you're on site!

New Resource Highlight: Running with the Bulls

By popular request, we've recently added a new print resource that has been in high demand: *Running with the Bulls: How to Win Top-Dollar Settlements* by Nicholas Rowley & Courtney Rowley. This book, published by Trial Guides, "walks you through proven methods for negotiating just settlements for your clients. Along the way, it covers a range of topics, including how to evaluate noneconomic damages, a step-by-step guide for constructing and sending effective demand letters, how to write a demand letter that will open the defendant's insurance policy, how to help an injury victim when the policy limits are low, and many other valuable insights and powerful negotiation tactics that will help you better represent your clients."

Want to check this out, or make a suggestion about other titles we should add to our collection? Feel free to call us at 513-946-5300 or email reference@cms.hamilton-co.org.

Topical Updates

We are excited to announce the new design of the Topical Updates for 2021. If you have not signed up before and would like to start receiving substantive bi-weekly updates in one or more practice areas, please visit the topical updates page on our website to sign up. You can select from the following areas of law:

- Criminal
- Employment
- Estates and Trusts
- Family Law
- Intellectual Property
- Pension Benefits
- Real Estate
- Tax
- The Supreme Court & Con Law
- Torts



Subscriber Benefits

All subscribers have access to the following valuable resources and services:

Circulation privileges to borrow from over 40,000 print volumes for up to six weeks at a time

Access to extensive legal information databases from the Law Library, including Westlaw, Wolters Kluwer Cheetah™, Bloomberg Law®, Overdrive e-books, HeinOnline, and Loislaw treatises

Wireless network throughout the Law Library

Polycom videoconferencing

Eight meeting rooms with speaker phones

Professional reference service by our law librarians, available via e-mail, telephone, and in person

Free document delivery by fax or e-mail of print and electronic materials

CLE seminars throughout the year, on legal research and substantive topics

Subscribers' lounge, magazines, daily newspapers, and coffee

Bi-weekly news alerts by practice area

Discounted rates for photocopying

In addition, solos and attorneys whose firm has a subscription have 24 hour remote access to Fastcase.com case law, Aspen/LOISLaw treatises, HeinOnline (for under 50 attorney firms), EBSCOhost, and Wolters Kluwer Cheetah™

Upcoming CLEs—Live Interactive Webinars

Friday, September 24, 12-1 PM 2021

Hamilton County Municipal Court Update

Presenter: Hon. Josh Berkowitz

1.0 General credit in KY, Applied in Ohio



CLEs on Demand

The Hamilton County Law Library is proud to announce that the following self study CLEs are available in our on-demand library:

Elder Abuse Awareness (1.0 general hour in OH)

Medicaid Planning (1.0 general hour in OH)

Complex Appeals in Ohio (1.0 general hour OH)

Fastcase 7 (1.0 general hour in OH)

Mediation (1.0 general hour in OH)

2020 Employment Cases in the US Supreme Court (1.0 general hour in OH)

Trademark & Copyright Law in 60 Minutes (1.0 general hour in OH)

CHANGE Court (1.0 general hour in OH)

Legal Issues & COVID-19 (1.5 general hours in OH)

What Does Stress Have to Do With it? (2.5 hours professional conduct in OH)

Employment Law Resources

Law Library subscribers have access to a variety of Employment Law Resources, including those listed below. If you have questions about these resources, contact the reference staff at reference@cms.hamilton-co.org or 513.946.5300.

50 employment laws in 50 states

KF3320.Z99 E56

The ABA journal of labor & employment law

K12 .A23

Advanced employment law seminar

KFO331.A934 2019

Americans with disability cases

KF3469 .A5 A45

Basics of employment law

KFO331.B37 2019

The developing labor law

KF3369 .D48 2017

The employee handbook kit

HF5549.5 .C62 J33

Fair employment practices cumulative digest

FF3463.A6 B8

Kentucky employment and labor law

KFK1531 .L45 2019

Working with independent contractors

KF898 .F57 2005

Your Rights in the Workplace

KF3455.Z9 R47 2007

Online Resources

EBSCO

Create Your Own Employee Handbook
Employer's Legal Handbook

Fastcase

Employment Discrimination Library
Employment Law Library

HeinOnline

Employment Law [decisions], survey of Ohio Law: Ohio Supreme Court Decisions, Ohio Northern University Law Review

Overdrive

Americans with Disabilities Act
Employment Forms and Policies
Principles of Employment Law

Westlaw

The 401(k) Handbook
ABA Journal of Labor & Employment Law
Accommodating Disabilities—Business Management Guide
Accommodating Disabilities Decisions (CCH)
ADA Update
Avoiding & Defending Wrongful Discharge Claims
EEOC Compliance Manual (CCH)
Employee & Union Member Guide to Labor Law
Employer's Guide to the Fair Labor Standards Act
Employment Law
Employment Law Checklists and Forms
Ohio Employment Law Letter
Ohio Employment Practices Law—Baldwin's
Ohio Handbook

Upcoming Events:

Monday, September 6, 2021: Library Closed, Labor Day

Friday, September 17, 2021: Constitution Day

Friday, September 24, 2021, 12-1 CLE: Municipal Court Update



August 2021 Law Library Newsletter

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- Use the Westlaw Keycite flags to determine if it is good or not
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